

Remarks and Arguments

1. Claim 7 has been rejected under 35 USC 112, second paragraph for
5 indefiniteness. Applicant has amended Claim 7 to overcome said rejection,
wherein the rejection aptly noted that the storage of values in a time clock is
inconsistent with the common definition of a time clock as being a device for
telling time. Applicant has clarified Claim 7 to provide for updating a time
clock in accordance with a received message. Applicant respectfully request
10 that the rejection of Claim 7 under 35 USC 112, second paragraph be
withdrawn.

2. Claims 1 – 20 have been rejected under 35 U.S.C. 103(a), obviousness, as
being unpatentable over US Patent No. 6,766,162 to Beamish, hereinafter
15 Beamish '162.

Applicant appreciates the Graham factual inquiry set forth by the Office Action
and immediately notes that the cited reference (i.e. Beamish '162) is from
non-analogous art and can not be used to support a rejection of Claims 1 –
20 20 under 35 U.S.C. 103(a).

Applicant further notes that in order to support a rejection of claims under 35
U.S.C. 103, a cited reference must be from analogous art. In order to support
a rejection under 35 U.S.C. 103, a reference must either be in the same field
25 of endeavor or be reasonably pertinent to the problem solved by the
Applicant.

Here, Beamish '162 is concerned with causing a remote communications
device to indicate the availability of a message on a base station. *When*
30 *taken as a whole*, Beamish '162 does not provide any suggestion that the

5 teachings presented therein are applicable to product notification. For example, the present method and embodiments thereof is concerned with receiving a signal that is pertinent to the condition of a product wherein the signal is received. This is not even remotely close to the teachings of Beamish '162. In Beasmish '162, a signal is received and the received signal pertains to the condition of a messaging system; said condition being that the messaging system has an unheard message (Col. 2; Lns. 47 – 53). This disparity between the art of Beamish '162 and the claimed invention is even further a field than the usual example of non-analogous art where the use of a standard in-line memory in a personal computer was found to be non-analogous vis-à-vis the use of a standard in-line memory in an industrial controller (Wang Laboratories, Inc. vs. Toshiba Corporation).

15 As such, Applicant respectfully submits Beamish '162 can not be used to support a rejection of Claims 1 – 20 under 35 U.S.C. 103.

In order to support a *prima facie* case for obviousness using a particular set of references, the references must exhibit the following attributes:

- 20 (a) The prior art references must collectively teach or suggest all of the claim limitations in the application;
- (b) There must be a reasonable expectation of success in modifying the reference; and
- (c) The references must suggest or provide some motivation to modify and / or combine the reference teachings.

25 The Office Action openly admits that Beamish '162 fails to teach the use of a non-volatile memory. As such, the Office Action has failed to establish a *prima facie* case for obviousness. Although the Office Action purports that the use of non-volatile memory would be obvious, this is argumentative in that there has been no additional reference cited to teach such limitation in the

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claims. Furthermore, the Office Action purports that this would have been obvious to one having ordinary skill in the art. Applicant disagrees. The Office Action has mistakenly taken the skill level to be that of an artisan in the electrical arts. This is not so. Here, the skill level to be considered is that of a person involved in sending notices to product users, which has traditionally relied on postal methods.

Also, with respect to Claim 1, Beamish '162 fails to teach any discrimination in the receipt of a signal, e.g. with respect to a target product. As such, there is no teaching in Beamish '162 with respect to determining when a signal is addressed to a product. In Beamish '162, a mobile unit simply receives a message – there is no addressability described. The Office Action purports that the reception of a FSK signal is somehow analogous to a target identifier. In fact, the mobile units of Beamish '162 are responsive only to the presence of a signal (Col. 6; Lns. 49) wherein the apparatus of Beamish '162 is responsive when a signal is detected. In the claimed invention, the signal is *detected* (receiving) and then *qualified* (when addressed to product).

The analysis of the *prima facie* case can end here because the singularly cited reference does not teach or suggest the claimed method and embodiments thereof.

The *prima facie* case for obviousness also fails because Beamish '162 provides no motivation to combine or modify his teachings in order to arrive at the claimed invention. In absence of such motivation, the Office Action could have relied on the knowledge and experience of persons experienced in the art as motivation to modify the reference teachings.

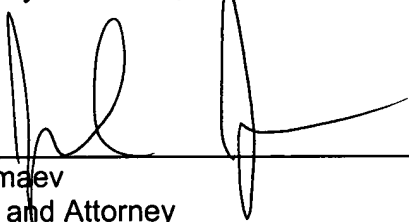
Here, Applicant contends that the level of skill and the relevant art pertains to the issuance of a notice to a user of a product. Such skill level is far removed

from an experienced electronic designer. An artisan skilled in issuing notices to product users would not have been motivated by any teachings in the electrical arts. It is clear that Beamish '162 is entirely focused in the electrical art since signaling and the application (the state of an electronic messaging apparatus) are both endeavors in the electrical arts.

3. Applicant submits that all independent claims are non-obvious in that they stem from independent claims that Applicant has demonstrated to be non-obvious.

4. Based on the foregoing, Applicant considers the present invention to be distinguished from the art of record. Accordingly, Applicant respectfully solicits the Examiner's withdrawal of the rejections raised in the above referenced Office Action, such that a Notice of Allowance is forwarded to Applicant, and the present application is therefore allowed to issue as a United States patent.

Respectfully submitted,



Jack I. J'maev
Applicant and Attorney
Reg. No. 45,669

Intellectual Property Development
187 West Orangethorpe Ave. Suite H
Placentia, CA 92870